

**Statement of PPL Montana
Before the Natural Resources & Energy Committee
Of the Montana State Senate
Regarding Senate Bill No. 313
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Mr. Chairman and members of the Committee:

My name is David Hoffman, Manager of External Affairs for PPL Montana.

It should be no surprise to you that PPL Montana strongly opposes this bill. It is another defective variation of the tired concept contained in I-145 – “Buy Back the Dams”—that was soundly defeated in 2002 by the voters of Montana by a 2 to 1 margin.

Now 5 years later, the proponents of this bill apparently believe that if the voters didn't like the idea of the *State* buying the dams, perhaps they would prefer our friends at NorthWestern to be able to circumvent negotiating a purchase of these generating facilities at fair market value, and instead just condemn them for their own use. If condemnation by the State wasn't appropriate in 2002, do we now think condemnation by one private company against another is?

Montanans recognized in 2002 that this idea will create devastating business implications for every sector of our economy and in every corner of our state. This bill does nothing to solve electric supply issues or improve reliability of the electric grid, and in fact, would likely increase actual costs for consumers.

As the trial lawyers in this room will be happy to tell you, condemnation often ends up costing more than an arms' length purchase between a willing seller and buyer, particularly when you add in appraisal fees, attorney fees and the costs of the litigation. Conversely, these additional costs will necessarily be reflected in the price of electricity.

As the voters also recognized in 2002, starting down the road of taking another's private property by condemnation is a dangerous precedent – who will be next – you, your neighbor, the business down the block. Isn't it ironic that the Judiciary Committee just debated how important it was to protect the rights of private property owners from condemnation, as proposed by Senator Elliott with SB 41 and Senator Kaufmann with SB 363.

This bill is ripe for a number of legal challenges, including, among others, the fact that certain types of generation facilities are conveniently excluded from its bulls-eye. Section 2 of the bill provides an unusual exception for facilities that commenced operations after July 1, 2003 – just after the first operations of MDU's Hardin plant.

What conceivable or rational basis exists for providing a facility that commenced operations on July 2 cannot be condemned but one that commenced operations the day before can be? There have been three non-utility generation facilities built since that date and none of them could be condemned. That is unlawful discrimination under the Montana constitution. There are other legal challenges as well but I will not take your time further to detail them today.

PPL Montana purchased the generating assets of The Montana Power Company in good faith more than 7 years ago, investing **three quarters of a Billion dollars in Montana** and retaining 460 good paying jobs. Since then we have added more than 40 more jobs and invested additional millions in improvements to those assets, while continuing to pay top wages and benefits to our employees. Our commitment and investment in Montana is long-term, and we will strenuously work to protect it, just as we will continue to invest in Montana's future, contribute to our communities and provide quality jobs with good benefits for our 500 Montana employees, your next door neighbors and your constituents.

As I have said before, we as Montanans should work to encourage additional investment in Montana and address our most critical needs – education funding, health care costs, methamphetamine abuse, and so forth – instead of threatening sound businesses in our state and trying to force them from it. Economic development has been one of the highest priorities in this state for the last 30 years, no matter which party was in control. Sadly, the most ominous aspect of this legislation so easily recognized by the voters in 2002 is the chilling message it would send to businesses hoping to locate or develop in Montana.

This anti-business legislation is a real threat to Montana's economic well-being. It makes it clear to Wall Street and the rest of the country that Montana is no place to invest.